

JAN 20 2023

A BILL FOR AN ACT

RELATING TO AQUATIC NUISANCE SPECIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the department of
2 land and natural resources is the lead state agency for
3 preventing and responding to the introduction of aquatic
4 nuisance species through the regulation of ballast water
5 discharges and hull fouling organisms.

6 The legislature further finds that aquatic nuisance species
7 can also be introduced into state waters through discharges
8 incidental to the normal operation of a vessel, other than
9 ballast water and hull fouling.

10 The legislature further finds that the increase in global
11 trade and transportation, as well as climate change, can result
12 in unknown or previously benign aquatic plants, animals, and
13 pathogens becoming invasive.

14 The legislature further finds that part III of chapter
15 187A, "Alien Aquatic Organisms", should be amended to permit the
16 department to address incidental discharges other than ballast
17 water and biofouling, reflect the relationship between state and



1 federal laws related to aquatic nuisance species, establish
2 penalties sufficient to deter violations, and remove outdated
3 terminology.

4 The purpose of this Act is to:

- 5 (1) Authorize the department of land and natural resources
6 to prevent and respond to the introduction of aquatic
7 nuisance species from discharges incidental to the
8 normal operation of a vessel other than ballast water
9 and hull fouling;
- 10 (2) Reflect the relationship between the federal Vessel
11 Incidental Discharge Act of 2018 (title IX of P.L.
12 115-282) and state law;
- 13 (3) Provide penalties that will deter violations and
14 prevent the introduction of aquatic nuisance species;
15 and
- 16 (4) Update outdated terminology.

17 SECTION 2. Part III of chapter 187A, Hawaii Revised
18 Statutes, is amended as follows:

- 19 1. By adding two new sections to be appropriately
20 designated and to read:



1 "187A- Rules. (a) The department may adopt rules to
2 prevent and respond to the introduction of aquatic nuisance
3 species from discharges incidental to the normal operation of a
4 vessel.

5 (b) The rules may include:

6 (1) Standards for the department and the United States
7 Coast Guard to use as part of their respective
8 inspection protocols; and

9 (2) Requirements for preventative measures and best
10 management practices that will reduce the risk of
11 introduction of aquatic nuisance species.

12 (c) The rules may also include implementation of a course
13 of action in relation to the arrival or pending arrival of a
14 vessel, including a high risk vessel.

15 (d) Notwithstanding subsection (a) or any other law to the
16 contrary, if the federal government adopts any regulations under
17 VIDA for a discharge incidental to the normal operation of a
18 vessel related to aquatic nuisance species or that otherwise
19 preempts any rule adopted under this part, the VIDA regulation
20 shall be deemed to be a rule adopted by the department.



1 "Aquatic nuisance species" has the same meaning as used in
2 section 312 of the Federal Water Pollution Control Act (33
3 U.S.C. 1322), as amended.

4 "Discharge incidental to the normal operation of a vessel"
5 has the same meaning as used in section 312 of the Federal Water
6 Pollution Control Act (33 U.S.C. 1322), as amended.

7 "~~high~~ High risk vessel" includes ~~[fishing and~~
8 ~~recreational]~~ vessels and floating structures, such as barges,
9 dry docks, drilling rigs, and cranes, which have spent extended
10 periods of time tied up in out-of-state ports ~~[or prior to~~
11 arrival in the State transited a jurisdiction with a high risk
12 aquatic nuisance species, including high risk coral pathogens.

13 "VIDA" means the Vessel Incidental Discharge Act of 2018
14 (title IX of P.L. 115-282; 132 Stat. 4322) and the amendments
15 made by that Act."

16 4. By amending section 187A-32, Hawaii Revised Statutes,
17 to read:

18 "~~{}~~ §187A-32 ~~{}~~ ~~[Alien aquatic organisms; lead agency;~~
19 ~~rules.]~~ Purposes; lead agency. (a) The purposes of this part
20 are to:



1 (1) Authorize the department to prevent and respond to the
2 introduction of aquatic nuisance species from
3 discharges incidental to the normal operation of a
4 vessel, including discharges other than ballast water
5 and hull fouling;

6 (2) Reflect the relationship between the federal Vessel
7 Incidental Discharge Act of 2018 (title IX of P.L.
8 115-282) and state law; and

9 (3) Provide for penalties that will deter violations and
10 prevent the introduction of aquatic nuisance species.

11 ~~[(a)]~~ (b) The department is designated as the lead state
12 agency for preventing the introduction of and ~~[carrying out the~~
13 ~~destruction of alien]~~ responding to aquatic ~~[organisms]~~ nuisance
14 species through the regulation of ballast water discharges,
15 ~~[and]~~ hull fouling organisms[-], and other discharges incidental
16 to the normal operation of a vessel. The department may
17 establish an interagency team to address the concerns relating
18 to ~~[alien]~~ aquatic ~~[organisms-]~~ nuisance species.

19 ~~[(b)]~~ ~~The department may adopt rules in accordance with~~
20 ~~chapter 91, including penalties, to carry out the purposes of~~
21 ~~this part. The rules may include standards for the department~~



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1 ~~and the United States Coast Guard to use as part of their~~
2 ~~respective inspection protocols. The rules may also include~~
3 ~~implementation of a course of action in relation to the arrival~~
4 ~~or pending arrival of a high risk vessel.~~

5 ~~(c) The governor may enter into an agreement with the~~
6 ~~United States Secretary of Transportation to carry out the~~
7 ~~purposes of this part, including but not limited to the~~
8 ~~enforcement of state law.] "~~

9 SECTION 3. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY: *Francis R. Monroe*



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Report Title:

Department of Land and Natural Resources; Division of Aquatic Resources; Aquatic Nuisance Species; Discharges Incidental to the Normal Operation of a Vessel; Penalties

Description:

Authorizes the Department of Land and Natural Resources to adopt rules to prevent and respond to the introduction of aquatic nuisance species from discharges incidental to the normal operation of a vessel and reflect the relationship between the federal Vessel Incidental Discharge Act of 2018, as amended, and state law.

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